

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Village of Plover for the Alteration of a Public Crossing of the Wisconsin Central Ltd. Tracks with Eisenhower Avenue in the Village of Plover, Portage County

9164-RX-623

FINAL DECISION

By letter dated November 17, 2005, the Village of Plover petitioned the Office of the Commissioner of Railroads (OCR) for the alteration of a public crossing of the Wisconsin Central Ltd. (WCL) tracks with Eisenhower Avenue in the Village of Plover, Portage County (crossing no. 281 489Y / MP 79.54).

Pursuant to due notice, public hearing was held in this matter on February 1, 2006 in Plover, Wisconsin with hearing examiner Douglas S. Wood presiding.

On February 17, 2006, the hearing examiner issued a proposed decision. The Commissioner adopts the proposed decision as final without change.

Appearances:

**Parties**

Village of Plover, Petitioner  
by  
Daniel R. Mahoney  
Village Administrator  
PO Box 37  
Plover, WI 54467

As Interest May Appear:

Wisconsin Central Ltd.  
by  
Terry Lee, PE  
Manager Public Works  
1625 Depot Street  
Stevens Point, WI 54481

## Findings of Fact

### THE COMMISSIONER FINDS:

The Village plans to widen Eisenhower Avenue from a 2-lane roadway to a divided 4-lane roadway with two 12' lanes in each direction and 6'-wide outside shoulders (3' paved). The roadways would be divided by a 24'-wide raised median. The Village also proposes a new 10'-wide multipurpose trail along the west side of the roadway located 18' behind the shoulder. Construction is proposed for 2006.

Additional right-of-way will be acquired for the roadway. The centerline of the roadway will be shifted to the east. The multipurpose path will be built along the western edge of the existing right-of-way (which will still be the western edge of the right-of-way).

Eisenhower Avenue is 24' wide with 4'-wide gravel shoulders and intersects the tracks at an angle of 90°. The crossing is located about 1000' north of CTH 'B'. The crossing consists of one mainline track. This track is the Plover Subdivision and ends approximately one-mile east of the Eisenhower Avenue crossing. The track is currently 'red-flagged' about 600' east of the crossing.

Eisenhower Avenue carries 2400 ADT (average daily traffic). The Village projects Eisenhower Avenue will carry 6300 ADT in the design year of 2024. Depending on additional development the future traffic may be substantially higher. The speed limit is 45 mph.

The current crossing surface is a 3-rail and asphalt design. The Village proposes concrete panels for the reconstructed crossing. Given the projected future traffic volume it is reasonable to install concrete panels.

Eisenhower Avenue runs north-south about a half mile east of I-39. Eisenhower Avenue extends from STH 54 on the south to USH 10 on the north (the roadway is called Brilowski Road on the north end), a distance of 6.7 miles. This entire corridor is being converted to a 4-lane facility and will become a minor urban arterial highway serving traffic on the east side of the Stevens Point-Plover area. The corridor will connect, among other things, a major commercial area around CTH 'HH' and the new Centre Lakes Resort complex.

The Centre Lakes Resort complex is a 740-acre project encompassing a 300+ unit hotel, an 85,000 square-foot convention center, a 45,000 square-foot water park, an 18-hole golf course, and a 2-lake 'aquaplex'. The development will also include 38 acres of commercial property, 114 single-family homes, and 178 condominium units. Total cost of construction is estimated at \$240,000,000.

The Centre Lakes Resort complex will significantly increase highway traffic in the area. Although the resort complex will be south of CTH 'B', it will still generate a significant increase in traffic over the WCL tracks.

The railroad currently operates 2 train movements per day over the Eisenhower Avenue crossing location at a maximum speed of 20 mph. Actual train speeds are 5 to 10 mph. The track is used to serve the adjacent Del Monte plant. The trains typically consist of an engine and 2-3 cars.

A driver traveling at 45 mph needs a distance of 380' to stop safely. The crossing is visible from more than 380' in each direction. A driver traveling at 45 mph needs to see a train when it is 150' from this crossing from a point 380' down the highway. The Village proposes to acquire permanent sight easements to establish and maintain the necessary clear corner sight distance in each quadrant. The order requires that the Village acquire permanent sight easements to create and maintain a clear view within the required corner sight triangles in each quadrant.

At all crossings, except those with gates, a driver stopped 15' short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15' past the far rail, prior to the arrival of a train. Required clearing sight distance along both directions of the track, from the stopped position of the vehicle, is dependent upon the maximum train speed and the acceleration characteristics of the "design" vehicle. The necessary clearing sight distance at the Eisenhower Avenue crossing is 450'. The available clearing sight distance is more than 450'.

The exposure factor at this crossing is about 4800. The exposure factor at this crossing will exceed 12,000 in the design year assuming 2 train movements per day. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

One train-vehicle accident has occurred at this crossing since 1973. The accident occurred in 1979 before the rail line was cut off.

The crossing presently has crossbucks, stop signs and advance warning signs for warning devices. The Village proposes to remove the stop signs, to add pavement markings and retain the crossbucks and advance warning signs. Crossbucks, advance warning signs, and pavement markings will adequately protect public safety in conjunction with the clear corner sight triangles based on the low train numbers and speed.

In summary, the alteration of the crossing at-grade of the Wisconsin Central Ltd. tracks with Eisenhower Avenue will promote public safety and convenience.

**Costs:** Under s. 86.12 the railroad bears an obligation to maintain all at-grade crossing surfaces. When a crossing is being widened the OCR's past practice has apportioned the cost of the crossing construction with the railroad being responsible for the existing width and the highway authority (Plover) being responsible for the added width. In this case the existing crossing is 32' between shoulders and the altered crossing will be 70'. The Village proposed that the cost be split 45.7% to the railroad and 54.3% to the public.

In another docket, the OCR recently concluded that a railroad might be entitled to a credit for the remaining life in an existing crossing. Thus, the railroad's pro-rated share might be reduced if it is shown that the crossing has a substantial amount of remaining life left. A post-hearing inspection determined that the crossing has a 3-rail crossing surface. The railroad subsequently notified the OCR that it has determined that the crossing is in fact quite old and is due for repair.

The cost will be apportioned based on the standard pro-rated formula.

#### Ultimate Conclusions on the Issues

##### THE COMMISSIONER CONCLUDES:

1. That the alteration of the crossing at-grade of Eisenhower Avenue with the Wisconsin Central Ltd. tracks in accordance with the design plans of the Village of Plover in the Village of Plover, Portage County will promote public safety and convenience.
2. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks.
3. That it is reasonable that the Wisconsin Central Ltd. bear 45.7% of the cost for the crossing construction.

#### Conclusion of Law

##### THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§86.13, 195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

#### Order

##### THE COMMISSIONER ORDERS:

1. That the **Wisconsin Central Ltd.** shall install and maintain a crossing at-grade of **Eisenhower Avenue** with its tracks in accordance with the design plans of the Village of Plover in the Village of Plover, Portage County by **August 15, 2006** (Crossing No. 281 489Y / MP 79.54).

2. That the **Wisconsin Central Ltd.** shall relocate and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossing of its tracks with Eisenhower Avenue at-grade in the Village of Plover, Portage County by **August 15, 2006** (Crossing No. 281 489Y / MP 79.54).

3. That the **Village of Plover** shall obtain permanent easements to provide a clear view within the required sight triangles (except that part within the railroad right-of-way). That the **Village of Plover** shall remove any obstructions within those sight triangles (except that part within the railroad right-of-way), including earth embankments, as part of the project. The triangles are formed by connecting the following points: a) the intersection of the centerline of the roadway and the near rail of the tracks; b) a point 150' down the tracks and; c) a point 380' along the roadway from the near rail of the tracks.

4. That the **Wisconsin Central Ltd.** shall bear 45.7% of the cost of the crossing construction and any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

5. That jurisdiction is retained.

Dated at Madison, Wisconsin, (March 9, 2006).

By the Office of the Commissioner of Railroads.

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Rodney W. Kreunen  
Commissioner of Railroads

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